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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/812,833 | 03/30/2004 | Erwin Haller | 08146.0001U1 | 3114 |
| 23850 7590 07/28/2008 Ballard Spahr Andrews & Ingersoll, LLP SUITE 1000 999 PEACHTREE STREET ATLANTA, GA 30309-3915 | | | | |
| EXAMINER | | | | |
| WUJCIAK, ALFRED J | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 3632 | | | | |
| MAIL DATE | | DELIVERY MODE | | |
| 07/28/2008 | | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/812,833

Applicant(s)

HALLER, ERWIN

Examiner

Alfred Joseph Wujciak III

Art Unit

3632

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

This is the non-final Office Action for the serial number 10/812,833, DEVICE AND METHOD FOR SPRINGING A VEHICLE SEAT, filed on 3/30/04.

In view of the appeal brief filed on 5/6/08, PROSECUTION IS HEREBY REOPENED.
A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/J. ALLEN SHRIVER II/
Supervisory Patent Examiner, Art Unit 3632.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 2, "vehicle seat" is indefinite because it cites combination/subcombination problem. "Vehicle seat" is not positively cited in preamble of claim 1.

Claim 1 lines 14-15 and claim 11, lines 13-14, "the volume in which the air to be compressed is reduced" is indefinite because it is not possible for compressed air to be reduced if the switched is off (claim 1, line 12). There has to be a way for the compressed air to be reduced by leaving the container/tank/reservoir/etc. The compressed air cannot be reduced if it remains in container/tank/reservoir/etc.

Claim 2 recites the limitation "the vibration damping additional air volume" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 7, the word "means" is preceded by the word(s) "operating device" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claim 9, line 3, "greater than 0.11" is indefinite because the applicant needs to specify the measurement for the "0.11" such as psi or pounds.

Claims 2-10 are rejected as depending on rejected claim 1. Claims 12-13 and 15 are rejected as depending on rejected claim 11.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7-8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent # 3,466,055 to Keijzer.

Keijzer teaches a device comprising at least one air spring (column 1, line 17) and a control device (138, 140). The spring varies on how air volume is being supplied (column 8, lines 66-75). The device includes at least one directional control valve (148). The device includes the automatic height adjustment (68, column 9, lines 56-58). The device includes a recognition device (252) and switching device (246).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 9 and 11-13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keijzer.

Keijzer teaches a device comprising at least one air spring (column 1, line 17) and a control device (138, 140). The spring varies on how air volume is being supplied (column 8,

lines 66-75). The device includes at least one directional control valve (148). The device includes the automatic height adjustment (68, column 9, lines 56-58). The device includes a recognition device (252) and switching device (246).

Keijzer teaches a regulator switch (246) but fails to teach the switch is arranged in the region of an armrest of the vehicle seat. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified the location of switch to armrest of the vehicle seat to provide manual control for human to adjust the device.

Regarding claim 9, Keijzer teaches additional air volume being supplied and discharged but fails to specified amount of air volume being supplied and discharged. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have specified amount of air volume to provide damping when vehicle is being impact by external environment.

Keijzer teaches all of elements above but fails to teach the use of elements in method. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have specified steps for setting up elements together to prevent damage on vehicle when not setting up in proper way.

Response to Arguments

Applicant's arguments with respect to claims 1-13 and 15 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joey Wujciak whose telephone number is (571) 272-6827 or send e-mail to the examiner at Joey.Wujciak@uspto.gov. The fax machine telephone number for the Technology Center is (571) 273 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Primary examiner
A. Joseph Wujciak III
Art Unit 3632
7/18/08
/A. Joseph Wujciak III/